IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

MONDAY, THE TWENTY SECOND DAY OF NOVEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE B. SUDERSHAN REDDY

and
THE HON'BLE MR JUSTICE T.CH.SURYA RAO

WRIT PETITION NO : 14940 of 2004

Between:

M/s. Champion Photostat Industrial Corporation,

rep. by its Proprietor,

Jail Ashok Malik,
S/o. Jai Kishan Malik, aged about 48 years, R/o 17, Dev Colony,

Rohtak - 124 001. Haryana.

..... PETITIONER

AND

1 The Joint Commissioner of Customs, New Custom House,

Port Area, Visakhapatnam.
2 Commissioner of Customs & Central Excise (Appeals),

4th Floor, Custom House, Port Area,
Visakhapatnam - 534 035.

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue an appropriate writ, order or direction in the nature of writ of mandamus declaring the action of the 1st respondent in not implementing the order of the 2nd respondent dated 30-07-2004 made in A.No. 09/2004(V)/CH, as arbitrary, illegal and consequently direct the 1st respondent to forthwith implement the order of the 2nd

respondent dated 30-07-2004 made in A.No. 09/2004(V) CH.

Counsel for the Petitioner: MR.C.V.MOHAN REDDY

Counsel for the Respondents: MR.A. RAJASHEKAR REDDY (SC FOR CG)

The Court made the following :

ORDER: (Per Hon'ble BRSR,J)

Sri. Mohan Rao, appearing on behalf of the learned counsel for the petitioner Sri.C.V.Mohan Reddy, submits that pursuant to the interim directions dated 13-09-2004 granted by this Court, the 1st respondent-Joint Commissioner of Customs, having implemented the order passed by the 2nd respondent-Commissioner of Customs and Central Excise (Appeals) dated 30-07-2004, released the goods after collecting the duty chargeable on goods and as well as the penalty. In the circumstances, the learned counsel submits that no further directions are required to be issued.

The learned Standing Counsel for the Central Government states that the Department had already filed an appeal against the order of the 2nd respondent, and the same is under consideration of the appellate authority.

Needless to observe that this order shall in no manner be construed as if the appellate authority is prohibited from hearing the appeal preferred by the department. If the department had already filed an appeal, the order of the 2nd respondent, which is stated to have been implemented by the 1st respondent shall

always be subject to the orders to be passed by the appellate authority.

The writ petition is accordingly disposed of. No order as to costs.

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B. SUDERSHAN REDDY, J

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T.CH.SURYA RAO ,J

22nd day of November, 2004.

Vs/msv

To

1 The Joint Commissioner of Customs, New Custom House,

Port Area, Visakhapatnam.
2 Commissioner of Customs & Central Excise (Appeals),

4th Floor, Custom House, Port Area,
Visakhapatnam - 534 035.

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